

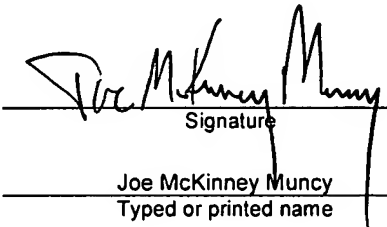
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 4014-0170P	
	Application Number 10/760,526-Conf. #1101	Filed January 21, 2004	
	First Named Inventor Giorgio GRANDIN		
	Art Unit 3728	Examiner J. M. Mohandesi	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>32,334</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p> _____ Signature Joe McKinney Muncy Typed or printed name (703) 205-8026 Telephone number June 15, 2007 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			



Docket No.: 4014-0170P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Giorgio GRANDIN

Application No.: 10/760,526

Confirmation No.: 1101

Filed: January 21, 2004

Art Unit: 3728

For: ARTICLE OF FOOTWEAR HAVING AN AT
LEAST PARTIALLY COMPOSITE
STRUCTURE

Examiner: J. M. Mohandesi

REASONS FOR REQUEST FOR PRE-APPEAL BRIEF REVIEW

Commissioner for Patentss
P.O. Box 1450
Alexandria, VA 22313-1450
s
Sir:

The present application has been finally rejected on March 19, 2007. This is the second action after a Request for Continued Examination. A single rejection has been applied, namely the rejection of claims 1-6, 8-10 and 12 as being obvious over Wittmann (U.S. Patent No. 5,667,737) in view of Sugiyama (U.S. Patent No. 4,798,010) and Seidel (U.S. Patent No. 4,096,650). Applicants believe that first, insufficient motivation has been shown for the combination of the three references and second that all of the features of the claims are not either shown by the references or obvious thereover.

The present invention is a ski boot or similar footwear having a sole 15, a shell 10, and a leg piece 20. The leg piece and shell are joined by a pivot 25. The shell (to the exclusion of the sole 15, page 3, line 2) is made of a composite structure having a first layer 30 and a second layer 40. The two layers are made of different materials, with one having a higher mechanical strength than the other. Ribs 36 are formed in one of the layers and a corresponding recess 44 is provided

in the other layer. The ribs 36 are formed in a truss-like pattern as shown in Figure 2 which form a knot 38.

The Examiner cites Wittmann to show a boot using two different materials and, in Figure 4, having two different layers. The Examiner admits that Wittmann does not teach the overlapping transition areas having ribs intersecting to form a truss-like pattern.

The Examiner relies on Sugiyama to show a footwear having a hard elastic layer and a soft elastic layer with complimentary ribs forming a truss-like pattern. The Examiner is referring to layers 5 and 6 in the sole of the athletic shoe which has a wavy pattern and according to column 2, lines 46-51, the wavy configuration suppresses the adverse influence of the hardness of the adhesive.

The Examiner cites the Seidel reference to show a ski boot having partially transparent plastic material. The Examiner feels it would have been obvious to use transparent material as shown by Seidel in the Wittmann reference and to have intersecting complimentary ribs forming a truss-like pattern as taught by Sugiyama.

First, Applicants submit that the Examiner has not properly shown a motivation for combining these three different references. The Examiner only states that Sugiyama discloses ribs for better bonding and stiffening of the footwear. Applicants submit that there is no motivation for combining the three references. Especially in regard to the Sugiyama reference, it is not seen how one skilled in the art would look to the sole of an athletic shoe for the wavy configuration which makes it less hard, in order to improve the stiffness of the shell of the ski boot. Not only is the shoe of Sugiyama a different type of footwear, but the wavy configuration as shown in the sole rather than in the body of the shell. Further, the wavy configuration is not the same as a rib for holding two layers together in a more stiff configuration. In fact, the wavy configuration is designed to avoid a hardness in the sole. Thus, Applicants submit that the Examiner has not met her burden of showing a motivation for combining these three references.

Furthermore, Applicants submit that even the combination does not render all of the terms of the claims obvious. First, it is noted that line 2 of claim 1 specifically defines the composite structure of the shell as being in selected locations other than the sole. The teachings of the wavy configuration are only shown in the sole in Sugiyama which had been excluded by the definition in the claims. Thus, Applicants submit that Sugiyama does not show a composite structure in a location other than the sole as defined by the claims. Claim 1 further describes the protruding element. The Examiner has equated this to the wavy configuration of Sugiyama. It is not clear that such a gentle wavy pattern can be considered “protruding.” Accordingly, Applicants submit that the combination of references does not teach or render obvious all of the limitations of claim 1.

Likewise, in regard to claim 3, the protruding elements are defined as ribs which are clearly not shown in Sugiyama. Further, the ribs are defined as stiffening selected locations of lateral and upper portions of the footwear “other than the sole.” To the extent that Sugiyama shows an arrangement which can be considered ribs, these are not in the lateral and upper portions of the footwear other than the sole. Further, the wavy configuration of Sugiyama is to make the sole less hard rather than make it stiffer. Accordingly, it is designed for the opposite purpose. Further, claim 3 describes that the stiffening is through an increase of the moment of inertia of the composite structure. This is not described in any of the references. Accordingly, Applicants submit that claim 3 also includes limitations which are not obvious over the three references.

Likewise, claim 4 specifically describes the truss-like pattern as having a plurality of knots. This arrangement is not seen, suggested, or even hinted at in any of the three references. Applicants do not understand how the wavy configuration of Sugiyama where the waves are completely parallel can be considered to form a truss-like pattern having a plurality of knots. Accordingly, Applicants submit that claim 4 includes limitations which are not obvious over the combination of references.

Claim 12 is similar to claim 1 except for the final wherein phrase describing the clear material at the end of the claims. Applicants submit that the arguments discussed above in regard to claim 1 are also applicable to claim 12 since this claim also includes the composite structure at selected locations other than the sole and also includes protruding elements. Accordingly, claim 12 also has elements which are not shown by the combination of the references.

Applicants request that the Pre-Appeal Brief conference consider these issues and reverse the Examiner's rejection.

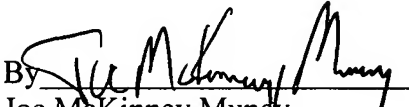
CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse, Reg. No. 27,295 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: June 15, 2007

Respectfully submitted,

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